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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/227,529    01/09/99    KUMAGAI

T    960569C

MM92/0802  
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EXAMINER

YVEN, J

ART UNIT

PAPER NUMBER

2876

DATE MAILED:

08/02/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/227,529

Applicant(s)

Kumagai, et al.

Examiner

James Yven

Group Art Unit

2876

☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 45-52 and 56 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 45-52 and 56 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2, 5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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**DETAILED ACTION**

1. Claims 45-52, 56 are presented for examination.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

3. The disclosure is objected to because of the following informalities in the specification as submitted in [paper 4, amendment B]:

- (a) The title is not descriptive of the invention as set forth in the claims, namely a "stand".
- (b) The abstract does not contain any mention of the claimed matter, namely a "stand".
- (c) The abstract contains grammatical and idiomatic errors. For example:

line 2: "An optical read is capable of reading".

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMillan [4,766,297] in view of Sanders et al. [5,612,530].

Re claim 45: McMillan teaches a stand [Fig. 1, 42] on which an optical reader [Fig. 1, 24], which has a read window through which scanning light is emitted and a grip enabling a user to grasp said optical reader [Fig. 1, 22], and which scans a mark borne by an article using scanning light emitted through said read window, detects light reflected from said mark, and thus reads information, is mounted, comprising:

a holder section in which said grip is mounted so that said grip can be dismounted freely [Fig. 1, 42]; and

McMillan fails to teach a base for supporting said holder section so that said holder section can pivot; said holder section having a slit, through which a cable coupled with said optical reader can pass, on the same side thereof as the side of said optical reader having said read window.

Sanders teaches a base [Fig. 5] for supporting a holder section so that said holder section can pivot [Fig. 5, 118]; said holder section having a slit [Fig. 5, on the center between 116's], through which a cable coupled with an optical reader [Fig. 4, 30] can pass, on the same side thereof as the side of said optical reader having a read window.

Re claim 46: McMillan as modified by Sanders teaches a stand wherein a concave dent is formed from a position on said base coincident with a lower end of said grip of said optical reader mounted toward the forward side of said stand [Fig. 5, 114].

Examiner's note: the above does not seem to have an inventive step but a mere design choice as consequence of components placement.]

Re claim 47: McMillan teaches a stand wherein said holder section has a member to be actuated with an instruction sent from said optical reader so that a state in which said optical reader is mounted on said stand can be reported to said optical reader [Fig. 1, 64, 92].

Re claim 48: McMillan fails teaches a stand wherein said member is shaped like a jut, and when said optical reader is mounted on said stand, said member pushes said instructing means.

Sanders teaches a stand wherein a member is shaped like a jut [Fig. 5, 154], and when said optical reader is mounted on the stand, said member pushes said instructing means.

In view of Sanders' teachings , it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known instructing means into the disclosures of McMillan due to the fact that the use of such actuating device would allow more user convenience on handling the device and thus improves user satisfaction. Accordingly, such modification would have been an obvious extension as taught by McMillan, and therefore an obvious expedient.

Re claim 49: McMillan fails teaches a stand wherein said member is a mark readable by said optical reader, and said mark is located at a position enabling scanning light emanating from said optical reader mounted on said stand to scan said mark.

However, McMillan teaches an actuating device [Fig. 1, 64] to be read by the reader [Fig. 1, 12] when the said reader is placed on the stand [Fig. 1, 42].

In view of McMillan's teachings , it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known

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actuating device into the disclosures of McMillan due to the fact that the use of such actuating device would allow more user convenience on handling the device and thus improves user satisfaction. Accordingly, such modification would have been an obvious extension as taught by McMillan, and therefore an obvious expedient.

6. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. [5,612,530].

Sanders teaches an optical unit [Fig. 5, 114] having all the elements and means as recited in instant claim comprising: an optical part having a first and second stems formed coaxially on both edges thereof [Fig. 5, 116's] and a third stem formed vertically to said second stem on one of the edges thereof [Fig. 5, portion between 116's]; and

a frame on which said optical part is mounted [Fig. 5, 114], and which includes a first slit-like bearing into which said first stem is fitted, a second bearing into which said second stem is fitted [Fig. 5, 118's], and a third elongated bearing [Fig. 5, center of 122] into which said third stem is fitted.

Sanders fails to explicitly disclose the third stem which forms an arc with said second bearing as a center.

However, Sanders has fairly disclosed a support stand having all the elements and means as recited and in instant claim and since components movements are dictated by their placement

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and their relational points of view with each other and the claimed movement does not seem to contain an inventive step and therefore are design choices.

In view of Sanders' teachings, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the notoriously old and well known arc movement into the disclosures of Sanders due to the fact that the incorporation of such movement may facilitate the reading of objects by allowing more user convenience on handling the device and thus improves user satisfaction. Accordingly, such modification would have been an obvious extension as taught by Sanders, and therefore an obvious expedient.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 50-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Sanders et al. [5,612,530].



Re claim 50: Sanders teaches a stand on which an optical reader, which includes a read window through which scanning light is emitted and a grip enabling a user to grasp said optical reader [Fig. 3, 30], and which scans a mark borne by an article using scanning light emitted through said read window, detects light reflected from said mark, and thus reads information [Fig. 3, 4], is mounted, comprising: a stand member on which said optical reader is mounted in such a manner that said grip of said optical reader will face laterally [Fig. 5, 114].

Re claim 51: Sanders teaches a stand further comprising:

a holder section in which said grip is mounted so that said grip can be dismounted freely [Fig. 5, 118]; and a base for supporting said holder section so that said holder section can pivot [Fig. 5, 114]; said stand member having a tongue, which is inserted into said holder section so that said tongue can be removed freely, on a bottom thereof [Fig. 5, 118].

Re claim 52: Sanders teaches a stand wherein when said optical reader is mounted in said stand member, said optical reader is held at an angle at which at least one scanning pattern, which is composed of a group of scanning rays, of scanning patterns created by scanning rays emitted through said read window of said optical reader becomes horizontal [Fig. 4, 42].

Examiner's note: the above does not seem to have an inventive step but a mere design choice as consequence of components placement.]

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Baitz [5,177,345], Katoh et al. [5,992,747], Rockstein et al. [5,811,780], Poland [4,825,058], Wike, Jr. [5,198,650], Inagaki et al. [5,140,141], Williams [4,578,571], Ring et al. [6,065,676], Aragon [5,477,044], Schmidt et al. [5,796,091], Swift et al. [5,763,865].

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Yven whose telephone number is (703) 308-6548. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald T. Hajec, can be reached on (703) 308-4075. The fax phone number for this Group is (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [don.hajec@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly

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Representative: J.P. Kong

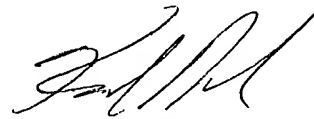
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set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

J. Yven

Art Unit 2876

July 28, 2000



KARL D. FRECH  
PRIMARY EXAMINER

7/31/00